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Judge Ridicules Messenger Spy Charges

By STEPHEN ENGELBERG
Special to The New York Times

WASHINGTON, Dec. 23 — A Federal magistrate said today that the sworn statement of the Federal Bureau of Investigation supporting espionage charges against a Washington messenger was "as thin an affidavit as it has been my misfortune to see in many years."

The magistrate, Jean F. Dwyer, said she would dismiss the case against the messenger, Randy Miles Jeffries, unless prosecutors produced additional evidence at a preliminary hearing scheduled for Tuesday. She said there was "no way" the criminal complaint, as filed today, would withstand challenge.

Mr. Jeffries, an employee of the Acme Reporting Company of 1220 L Street in Washington, was charged with espionage last Friday after telling an undercover agent he had already given the Soviet Union 60 "sample" pages of secret documents, the F.B.I. said.

Lawyer Denies Any Crime

Allen G. Dale, whom the court appointed to represent Mr. Jeffries, argued that the Federal agents made the arrest before his client had committed a crime. He said in an interview that the prosecution's case would collapse unless it could produce independent evidence that confirmed Mr. Jeffries's reported statements to the undercover agent.

Government sources said the case began on Dec. 14, when counterintelligence agents spotted an unidentified man leaving the office of the Soviet military attaché. After further investigation, Mr. Jeffries was identified as a suspect and an F.B.I. undercover agent got in touch with Mr. Jeffries, identifying himself as a Soviet operative.

Mr. Dale said, however, that there was no independent evidence proving that Mr. Jeffries had passed documents, or that the material involved was secret. Rhonda Fields, the Assistant United States Attorney handling the case, would not comment, but Government officials said prosecutors would provide additional evidence.

The F.B.I. said Mr. Jeffries had consented to a search of his apartment but they would not say whether anything had been found. In his meeting with the undercover agent, according to the F.B.I. affidavit, Mr. Jeffries said he had kept three documents "at another location." He agreed to retrieve them and bring them back, but was arrested before he did this.

Security Steps Described

Congressional officials said Acme, which has no branch offices in New York, had transcribed closed sessions of the House Armed Services Committee at which secret material has been presented. The criminal complaint filed today includes an affidavit by Michael Giglia, an F.B.I. agent, with disclosures about the transcribing company's security procedures.

The document said the F.B.I. had interviewed an Acme employee who said said he was assigned to destroy documents by tearing them up and throwing them into the trash. Federal officials have said this procedure was inadequate, that under a 1982 directive, such documents should be shredded, turned into pulp or burned.

Other Employee's Report

The employee interviewed by the F.B.I., who was not identified, said he had been asked to make a delivery run and that Mr. Jeffries had taken his place disposing of documents, the affidavit said.

At the end of the day, the affidavit continued, Mr. Jeffries told the other employee that he had hidden some documents in the garage. While the other employee left an elevator door open, the affidavit went on, Mr. Jeffries retrieved the documents, approximately 200 pages.

The affidavit quotes the employee as saying the documents that day were marked "secret" and "top secret" and "naval." Mr. Jeffries was quoted as saying "he knew where he could get good money for the documents and that he needed to find a Russian to sell the documents to."

Government sources said the employee did not notify the F.B.I. or his supervisor about Mr. Jeffries' remarks.

A company official said this weekend that storing and tearing up was not the usual practice at Acme and the company had a Government-approved shredder.

However, the affidavit says, the F.B.I. searched Acme on Dec. 21 and found "numerous documents" ripped in four pieces in a trash can. A majority of these were marked "top secret" or "secret," the affidavit said.

Steven R. Ross, counsel to the Clerk of the House of Representatives, said today the House was considering changes in transcribing secret hearings. He said the House employed a dozen stenographers with security clearances who handled all types of hearings. On some days, he said, outside companies are used to transcribe hearings because the House schedules many at once. If secret material is involved, the private stenographers must hold security clearances.

As for the companies, he said, the Pentagon inspects their facilities to assure they are secure. Mr. Ross said, however, that waits of up to one year for a security clearance were not unusual.

In Baltimore today, Ronald W. Pelton, another of the 11 Americans arrested for espionage this year, pleaded not guilty. A former employee of the National Security Agency, Mr. Pelton has been accused of selling information about the United States' secret methods for intelligence collection to the Soviet Union.

Mr. Pelton's lawyer, Fred W. Bennett, said the trial would last seven to eight days. He said he planned to ask the court to suppress a statement Mr. Pelton gave shortly before being arrested.

A trial date of March 24 was set.

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